

IN THE CHANCERY COURT FOR SHELBY COUNTY, TENNESSEE
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

STATE OF TENNESSEE, *ex rel.*
ROBERT E. COOPER, JR., ATTORNEY
GENERAL and REPORTER,

Plaintiff,

v.

TENNESSEE HOUSING PROTECTION
AGENCY, INC., a Tennessee non-profit
Corporation also doing business as
www.tnhpa.org; MARK JONES, individually
and doing business as TENNESSEE HOUSING
PROTECTION AGENCY, INC. and
www.tnhpa.org; and TED HOUSTON,
individually and doing business as
TENNESSEE HOUSING PROTECTION
AGENCY, INC. and www.tnhpa.org,

Defendants.

No. CH-08-1990-1

JURY DEMAND

**ORDER COMPELLING DEFENDANTS TO RESPOND TO PLAINTIFF'S REQUEST
FOR PRODUCTION OF DOCUMENTS AND INTERROGATORIES**

This Order comes upon the State's Motion for an Order to Compel Responses to Plaintiff's Request for Production of Documents and Interrogatories, which was filed in January 2010. Following a review of the State's pleading, the attached discovery requests, and a hearing on the matter, the State's motion is **GRANTED** as outlined below.

FINDINGS

1. Prior to the initiation of the instant suit, the State served a pre-filing subpoena for documents and information related to its investigation. Defendants only partially produced the requested documents and information. Furthermore, this partial production has not been

supplemented despite a statutory obligation to do so since the original response was received by the State in October 2008.

2. On July 2, 2009, the State served its Request for Production of Documents on Defendant Tennessee Housing Protection Agency, Inc. and its First Sets of Interrogatories on Defendants Tennessee Housing Protection Agency, Inc., Mark Jones and Ted Houston. Copies of these demands are attached as Collective Exhibit 1 to the State's Motion.

3. According to Tenn. R. Civ. P. 33.01 and 34.02, answers to the State's discovery were due by close of business August 3, 2009.

4. The State sent a letter to opposing counsel on August 14, 2009, requesting that Defendants answer the State's discovery. A copy of the State's letter to opposing counsel is attached as Exhibit 2 to the State's Motion.

5. Following the State's letter, counsel moved to withdraw from this case and the Court granted his withdrawal on September 1, 2009.

6. The State then sent two letters to the *pro se* Defendants on September 10, 2009 and October 15, 2009, notifying them of their ongoing duty to answer the State's discovery. Copies of the State's letters are attached as Collective Exhibit 3 to the State's Motion.

7. The State has submitted discovery demands that directly advance the merits of its case against the Defendants, are reasonably calculated to lead to the discovery of admissible evidence, and are not otherwise privileged or protected at this point.

8. Other than the recent submission of a deficient, incomplete, and unreasonable interrogatory response by Defendant Mark Jones, received after the State's motion for this order was filed, the Defendants have failed to produce a single document and have failed to answer or otherwise object to any of the State's discovery.

The State's Request for Production of Documents and Interrogatories can be classified into the following general categories:

1. Information and documents about services allegedly provided to consumers;¹
2. Information and documents about Defendants' business activities;²
3. Information and documents about the identities of Tennessee consumers;³
4. Information and documents about Tennessee consumer complaints;⁴
5. Information and documents about Defendants' advertisements;⁵
6. Financial information showing the amount of money realized by Defendants from consumers, salaries, and Defendants' ability to pay;⁶
7. Basic information about the Defendants' business model, corporate and non-profit status, and employees and directors;⁷ and
8. Basic discovery information.⁸

Categories 1-6 seek information directly related to the factual allegations alleged or the cause of action asserted in the State's Complaint. Through Category 7, the State seeks basic information about Defendant Tennessee Housing Protection Agency's corporate and non-profit status, any observed corporate formalities and its employees and directors. Through Category 8, the State seeks to ensure that it has all relevant documents and information about possible witnesses produced before trial in a timely manner.

Defendants have not carried their burden to show that the requested documents and information are privileged or otherwise protected.

¹ Tennessee Housing Protection Agency ("THPA") Request for Production ("RFP") # 17, 19; THPA First Set of Interrogatories ("INT") # 29; Mark Jones ("MJ") and Ted Houston ("TH") INT # 5, 8, 9, 18-19.

² THPA RFP # 9-11, 16, 18, 37-38; THPA INT # 11-13, 15, 17-18, 22-23, 28; MJ and TH INT # 4, 10, 14.

³ THPA RFP # 34; THPA INT # 8-9, 14, 16; MJ and TH INT # 6.

⁴ THPA RFP # 35-37; THPA INT # 25.

⁵ THPA RFP # 8, 30-33; THPA INT # 4-6; MJ and TH INT # 7.

⁶ THPA RFP # 21, 23, 24-29; THPA INT # 7, 24; MJ and TH INT # 15-17.

⁷ THPA RFP # 1-7, 12-15, 20, 22, 39, 40-43; # 3, 10, 19-21; MJ and TH INT # 3, 11-13.

⁸ THPA RFP # 44-50; THPA INT # 1-2, 26-27; MJ and TH INT # 1-2, 20-21..

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THEREFORE, IT IS SO ORDERED THAT, BY ~~THURSDAY~~, MARCH 28, 2009,

the Defendants shall be required to respond to each Interrogatory and produce all responsive documents in existence for each Request for Production.

Should the Defendants fail to produce or respond to the State's discovery as ordered by ~~February 16, 2009~~ **March 28, 2009**, the Court shall take all necessary and appropriate steps to bring the

Defendants into compliance with this Order, including the striking of the Defendants' Answer and defenses. Under Tenn. R. Civ. P. 37.02, the Court has the authority to issue:

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses or prohibiting the party from introducing designated matters in evidence;

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination.

Pursuant to Tenn. R. Civ. 37.01(4), attorneys' fees and costs associated with filing this motion are granted to the State. The State shall be awarded such fees upon final disposition of this matter upon a proper showing and in consideration of the factors established by the Tennessee Supreme Court to evaluate the reasonableness of attorneys' fees.

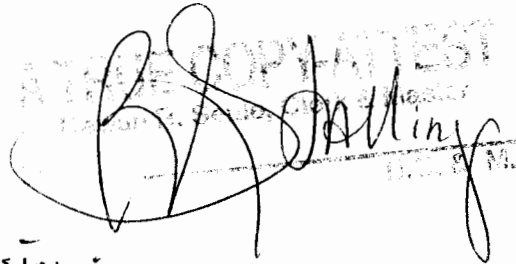
IT IS SO ORDERED.

This the 26th day of February, 2010.


CHANCELLOR WALTER EVANS

Respectfully submitted,

ROBERT E. COOPER, JR.
Attorney General and Reporter
B.P.R. No. 10934



 (By Permission;
JENNIFER E. PEACOCK, B.P.R. No. 22227

Assistant Attorney General

JEFFREY L. HILL, B.P.R. No. 16731

Senior Counsel

Office of the Tennessee Attorney General

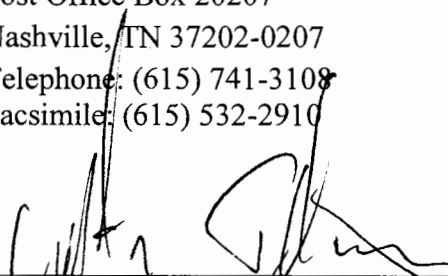
Consumer Advocate & Protection Division

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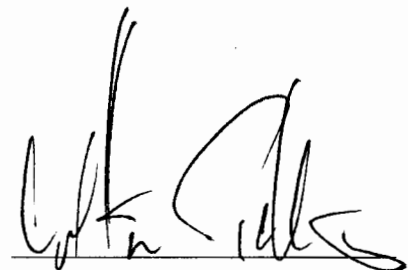
CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was sent via U.S Mail on this the 26th day of February, 2010, to:

Mark Jones
7761 Thunderstone Circle South
Memphis, Tennessee 38125

Ted Houston
6694 Apple Creek Drive
Memphis, Tennessee 38125

Mark Jones
Registered Agent
Tennessee Housing Protection Agency, Inc.
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Memphis, Tennessee 38125


WILLIAM A. TILLNER